

### **REMARKS**

The Office Action dated May 5, 2004 has been fully considered by the Applicant.

Claims 5 through 12 are pending in this divisional application. By way of the present amendment, independent Claims 5 and 9 have been amended. The limitations of Claim 7 have been incorporated into Claim 5 and Claim 7 has been canceled.

The rejection of Claims 5, 6 and 8 under 35 U.S.C. §103(a), as now amended, as unpatentable over Knedlek (U.S. Patent No. 3,044,878) in view of Beck et al. (U.S. Patent No. 6,490,872) is respectfully traversed.

Unlike the arrangement described in Knedlek, the present invention keeps the product refrigerated at all times once the bulk storage container of liquid beverage is opened. In other words, the liquid beverage is refrigerated in the refrigerated storage cavity and is also refrigerated in a separate, refrigerated zone through which the fluid passageway tube passes and in the bowl. In contrast, Knedlek does not keep the product refrigerated at all times. Indeed, Knedlek has no need to keep the flavored substance refrigerated at all times.

As set forth specifically in Knedlek, column 3, lines 59-62, a supply tank or container for the mixture of the flavoring substance and water is arranged externally of the housing 22. No provision is made for keeping the flavoring substance refrigerated throughout its movement.

Likewise, Beck et al. does not refrigerate the passageway 46, see for example, column 12, lines 41-49 which describes the movement of the product mix. No disclosure or teaching of refrigeration is provided.

In summary, the combination of Knedlek and Beck et al. taken together does not achieve the limitations of Claim 5.

Claims 6 and 8 are dependent on Claim 5 and are believed allowable for the same reasons.

The rejection of Claims 9, 11 and 12 under 35 U.S.C. §103(a) as unpatentable over Knedlek in view of Beck et al., as now amended, is respectfully traversed. Each of these independent claims include a specific limitation of transporting the beverage products from storage in the refrigerated storage cavity through a thermally conductive passageway into a bowl of the beverage machine. None of the prior art references singly or together include the teaching of a thermally conductive passageway which assists in retaining the product in a refrigerated state.

The rejection of Claims 5 through 12 under 35 U.S.C. §112 first paragraph as failing to comply with the enablement requirement is respectfully traversed. Initially, it is observed that the claims themselves must be reviewed as a part of the specification which describes the invention. The sensor is described not only in the specification but in the original claims. Moreover, the present application incorporates by reference the teachings of U.S. Patent Application Serial No. 09/650,586, now U.S. Patent No. 6,460,580. For example, see column 6, lines 29-49 which describes the liquid level sensors 108 and 110 which include an electric probe. If the liquid falls below a certain level, the electric circuit is interrupted. Thereafter, one of the beverage pumps will be activated automatically pumping fluid from the storage. Additionally, see the description of the thermally conductive passageway set forth in Claims 9, 11 and 12. Column 5, lines 35-40, describes the couplings of thermally conductive material. See also column 5, lines 55-60 which describes that since the bowl coupling is thermally conductive, the coupling will be chilled by the beverage.

Reconsideration of the Examiner's position under 35 U.S.C. §112 is requested.

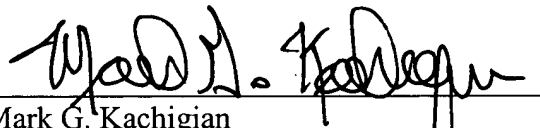
As set forth above, none of the references disclose or suggest these features, either singly or in combination.

Figure 3 has been amended to show in outline the liquid level sensor, the water delivery step and the connection of the liquid supply to the bowl. A formal drawing will be submitted upon allowance of the claims.

Also enclosed is a check in the amount of \$55 for the one-month extension fee.

It is believed that the foregoing is fully responsive to the outstanding Office Action. It is submitted that the application is now in condition for allowance and such action is earnestly solicited. If any further issues remain, a telephone conference with the Examiner is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark G. Kachigian', written over a horizontal line.

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**IN THE DRAWINGS:**

Please enter substitute drawing Figure 3 enclosed herewith.